

STAYED,TYPE-D

**U.S. District Court
District of Columbia (Washington, DC)
CIVIL DOCKET FOR CASE #: 1:17-cv-00827-EGS**

AMERICAN OVERSIGHT v. U.S. DEPARTMENT OF
HEALTH AND HUMAN SERVICES et al
Assigned to: Judge Emmet G. Sullivan
Cause: 05:552 Freedom of Information Act

Date Filed: 05/04/2017
Jury Demand: None
Nature of Suit: 895 Freedom of
Information Act
Jurisdiction: U.S. Government Defendant

Plaintiff

AMERICAN OVERSIGHT

represented by **Austin Ridgely Evers**
AMERICAN OVERSIGHT
1030 15th Street, NW
Suite B255
Washington, DC 20005
(202) 869-5245
Fax: (202) 871-6523
Email: austin.evers@americanoversight.org

John E. Bies
AMERICAN OVERSIGHT
1030 15th Street, NW
Suite B255
Washington, DC 20005
(202) 869-5243
Fax: (202) 871-6523
Email: john.bies@americanoversight.org

Katherine Marie Anthony
AMERICAN OVERSIGHT
1030 15th Street, NW
Suite B255
Washington, DC 20005
(202) 897-3918
Fax: (202) 871-6523
Email: katherine.anthony@americanoversight.org
PRO HAC VICE
ATTORNEY TO BE NOTICED

Sara Kaiser Creighton
AMERICAN OVERSIGHT
1030 15th Street, NW
Suite B255
Washington, DC 20005
(202) 869-5246
Fax: (202) 871-6523
Email: sara.creighton@americanoversight.org
ATTORNEY TO BE NOTICED

V.

Defendant

**U.S. DEPARTMENT OF HEALTH
AND HUMAN SERVICES**

represented by **James Mahoney Burnham**
U.S. DEPARTMENT OF JUSTICE
Civil Division
950 Pennsylvania Avenue, NW
Washington, DC 20530
(202) 353-5049
Email: james.m.burnham@usdoj.gov
LEAD ATTORNEY

ATTORNEY TO BE NOTICED

Michael Hendry Baer
U.S. DEPARTMENT OF JUSTICE
Civil Division, Federal Programs Branch
1100 L Street, NW
Washington, DC 20530
(202) 305-8573
Fax: (202) 616-8470
Email: michael.h.baer@usdoj.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

**OFFICE OF MANAGEMENT AND
BUDGET**

represented by **James Mahoney Burnham**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Michael Hendry Baer
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

V.

Intervenor Defendant

**COMMITTEE ON WAYS AND
MEANS U.S. HOUSE OF
REPRESENTATIVES**

represented by **Kimberly Ann Hamm**
U.S. HOUSE OF REPRESENTATIVES
Office of General Counsel
219 Cannon House Office Building
Washington, DC 20515
(202) 225-9700
Fax: (202) 226-1360
Email: kimberly.hamm@mail.house.gov
TERMINATED: 04/04/2019
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Thomas G. Hungar
U.S. HOUSE OF REPRESENTATIVES
Office of General Counsel
219 Cannon House Office Building
Washington, DC 20515
(202) 225-9700
Fax: (202) 226-1360
Email: thomas.hungar@mail.house.gov
TERMINATED: 01/25/2019
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Kristin A. Shapiro
U.S. HOUSE OF
REPRESENTATIVES/OFFICE OF
GENERAL COUNSEL
219 Cannon House Office Building
Washington, DC 20515
(202) 225-9700
Email: kristin.shapiro@mail.house.gov
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
------------	---	-------------

05/04/2017	<u>1</u>	COMPLAINT against All Defendants (Filing fee \$ 400 receipt number 0090-4939393) filed by AMERICAN OVERSIGHT. (Attachments: # <u>1</u> Exhibit A – HHS FOIA Request, # <u>2</u> Exhibit B – OMB FOIA Request, # <u>3</u> Exhibit C – OMB Response, # <u>4</u> Civil Cover Sheet, # <u>5</u> Summons for D.C. U.S. Attorney's Office, # <u>6</u> Summons for Attorney General, # <u>7</u> Summons for HHS, # <u>8</u> Summons for OMB)(Creighton, Sara) (Entered: 05/04/2017)
05/04/2017	<u>2</u>	MOTION for Preliminary Injunction by AMERICAN OVERSIGHT (Attachments: # <u>1</u> Memorandum in Support, # <u>2</u> Declaration of Sara Creighton, # <u>3</u> Exhibit 1, # <u>4</u> Exhibit 2, # <u>5</u> Exhibit 3, # <u>6</u> Exhibit 4, # <u>7</u> Exhibit 5, # <u>8</u> Exhibit 6, # <u>9</u> Exhibit 7, # <u>10</u> Exhibit 8, # <u>11</u> Exhibit 9, # <u>12</u> Exhibit 10, # <u>13</u> Exhibit 11, # <u>14</u> Exhibit 12, # <u>15</u> Exhibit 13, # <u>16</u> Exhibit 14, # <u>17</u> Exhibit 15, # <u>18</u> Exhibit 16, # <u>19</u> Exhibit 17, # <u>20</u> Exhibit 18, # <u>21</u> Exhibit 19, # <u>22</u> Exhibit 20, # <u>23</u> Exhibit 21, # <u>24</u> Exhibit 22, # <u>25</u> Declaration of Austin Evers, # <u>26</u> Exhibit A, # <u>27</u> Exhibit B, # <u>28</u> Exhibit C, # <u>29</u> Exhibit D, # <u>30</u> Exhibit E, # <u>31</u> Exhibit F)(Creighton, Sara) (Entered: 05/04/2017)
05/04/2017	<u>3</u>	Corporate Disclosure Statement by AMERICAN OVERSIGHT. (Creighton, Sara) (Entered: 05/04/2017)
05/04/2017		Case Assigned to Judge Emmet G. Sullivan. (md) (Entered: 05/04/2017)
05/04/2017	<u>4</u>	SUMMONS (4) Issued Electronically as to OFFICE OF MANAGEMENT AND BUDGET, U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES, U.S. Attorney and U.S. Attorney General (Attachments: # <u>1</u> Notice of Consent) (md) (Entered: 05/04/2017)
05/09/2017	<u>5</u>	NOTICE of Appearance by Michael Hendry Baer on behalf of All Defendants (Baer, Michael) (Entered: 05/09/2017)
05/09/2017		MINUTE ORDER. The Court sua sponte schedules a status hearing on May 10, 2017 at 3:00 PM in Courtroom 24A before Judge Emmet G. Sullivan. The parties are directed to be prepared to discuss scheduling further proceedings, a proposed briefing schedule with respect to <u>2</u> plaintiff's motion for a preliminary injunction, and whether plaintiff's motion for a preliminary injunction should be consolidated with a determination on the merits pursuant to Federal Rule of Civil Procedure 65(a)(2). Signed by Judge Emmet G. Sullivan on 5/9/2017. (lcegs2) (Entered: 05/09/2017)
05/10/2017		Set/Reset Hearings: Status Conference set for 5/10/2017 at 3:00 PM in Courtroom 24A before Judge Emmet G. Sullivan. (mac) (Entered: 05/10/2017)
05/10/2017	<u>6</u>	MOTION for Leave to Appear Pro Hac Vice :Attorney Name– Austin R. Evers, :Firm– American Oversight, :Address– 1030 15th Street NW B–255, Washington, DC 20005. Phone No. – (202) 869–5246. Fax No. – (202) 871–6523 Filing fee \$ 100, receipt number 0090-4946390. Fee Status: Fee Paid. by AMERICAN OVERSIGHT (Creighton, Sara) (Entered: 05/10/2017)
05/10/2017	<u>7</u>	MOTION for Leave to Appear Pro Hac Vice :Attorney Name– John E. Bies, :Firm– American Oversight, :Address– 1030 15th Street NW B–255, Washington, DC 20005. Phone No. – (202) 869–5246. Fax No. – (202) 871–6523 Filing fee \$ 100, receipt number 0090-4946419. Fee Status: Fee Paid. by AMERICAN OVERSIGHT (Creighton, Sara) (Entered: 05/10/2017)
05/10/2017	<u>8</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed as to the United States Attorney. Date of Service Upon United States Attorney on 5/8/2017. Answer due for ALL FEDERAL DEFENDANTS by 6/7/2017. (Creighton, Sara) (Entered: 05/10/2017)
05/10/2017		MINUTE ORDER granting <u>6</u> , <u>7</u> motions for leave to appear pro hac vice. Austin R. Evers and John E. Bies are hereby admitted pro hac vice in this action. Signed by Judge Emmet G. Sullivan on 5/10/2017. (lcegs2) (Entered: 05/10/2017)
05/10/2017		Minute Entry for proceedings held before Judge Emmet G. Sullivan: Status Conference held on 5/10/2017. Parties To File Joint Status Report due by 5/17/2017. (Court Reporter SCOTT WALLACE.) (mac) (Entered: 05/10/2017)
05/10/2017		MINUTE ORDER. At the status hearing on May 10, 2017, the government informed the Court that both agencies have undertaken searches in response to plaintiff's FOIA requests. The Court directs the parties to confer in good faith about the propriety of the

		search terms applied to the agencies' searches. The Court further directs the parties to submit a joint status report — which should include whether the volume of responsive documents has been ascertained, whether a production schedule can be set, and a recommendation as to further proceedings — by no later than May 17, 2017. In the event that the parties are unable to agree on a joint recommendation, each party shall file an individual recommendation by that time. In light of the status conference, the Court will defer setting a briefing schedule on <u>2</u> plaintiff's motion for a preliminary injunction at this time. Signed by Judge Emmet G. Sullivan on 5/10/2017. (lcegs2) (Entered: 05/10/2017)
05/10/2017	<u>9</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed. OFFICE OF MANAGEMENT AND BUDGET served on 5/8/2017; U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES served on 5/8/2017, RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed on United States Attorney General. Date of Service Upon United States Attorney General 5/8/2017. (See Docket Entry <u>8</u> to view document). (znmw) (Entered: 05/11/2017)
05/17/2017	<u>10</u>	Joint STATUS REPORT by OFFICE OF MANAGEMENT AND BUDGET, U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES. (Baer, Michael) (Entered: 05/17/2017)
05/19/2017		MINUTE ORDER. In light of the parties' joint status report, the parties are directed to submit a joint status report — which should include whether a production schedule can be set and a recommendation as to further proceedings — by no later than 3:00 p.m. on May 24, 2017. The Court further directs the parties to appear for a status hearing on May 25, 2017 at 12:30 PM in Courtroom 24A. Signed by Judge Emmet G. Sullivan on May 19, 2017. (lcegs2) (Entered: 05/19/2017)
05/19/2017		Set/Reset Deadlines/Hearings: Joint Status Report by 3:00PM on 5/24/2017. Status Conference set for 5/25/2017 at 12:30 PM in Courtroom 24A before Judge Emmet G. Sullivan. (mac) (Entered: 05/19/2017)
05/24/2017	<u>11</u>	Joint STATUS REPORT by <i>U.S. Department of Health and Human Services and Office of Management and Budget</i> , and by AMERICAN OVERSIGHT. (Creighton, Sara) (Entered: 05/24/2017)
05/25/2017		MINUTE ORDER. Due to the Court's calendar, the status hearing previously scheduled for May 25, 2017 at 12:30 p.m. will now take place on May 25, 2017 at 1:00 p.m. in Courtroom 24A. PLEASE NOTE THE TIME CHANGE. The Court regrets any inconvenience to the parties. Signed by Judge Emmet G. Sullivan on May 25, 2017. (lcegs2) (Entered: 05/25/2017)
05/25/2017		Set/Reset Hearings: Status Conference set for 5/25/2017 at 1:00 PM in Courtroom 24A before Judge Emmet G. Sullivan. (mac) (Entered: 05/25/2017)
05/25/2017		Minute Entry for proceedings held before Judge Emmet G. Sullivan: Status Conference held on 5/25/2017. Status Conference set for 10/23/2017 at 11:00 AM in Courtroom 24A before Judge Emmet G. Sullivan. The Court Will Issue An Order Forthcoming. (Court Reporter SCOTT WALLACE.) (mac) (Entered: 05/25/2017)
05/25/2017		ENTERED IN ERROR.....Minute Entry for proceedings held before Judge Emmet G. Sullivan: Status Conference held on 5/25/2017. The Court Will Dismiss This Case Without Prejudice. Plaintiff Motion For Reconsideration due by 6/8/2017. Defendant Response due by 6/15/2017. Plaintiff Reply due by 6/22/2017. (Court Reporter SCOTT WALLACE.) (mac) (Entered: 05/25/2017)
05/25/2017		MINUTE ORDER. Upon consideration of the parties' joint status report and the representations of the parties at the status conferences held on May 10 and May 25, 2017, and for the reasons stated on the record in open court at those conferences, the Court ORDERS defendants to review and process the approximately 11,000 pages of records identified by the Department of Health and Human Services and the 2,348 documents identified by the Office of Management and Budget by no later than September 5, 2017. HHS shall review and process (1) at least 3,500 pages by June 30, 2017; (2) at least an additional 3,500 pages by July 31, 2017; (3) and any remaining pages by September 5, 2017. HHS shall produce any non-exempt, responsive material to plaintiff on a rolling basis on those same dates. OMB shall review and process (1) at least 775 documents by June 30, 2017; (2) at least an additional 775 documents by

		July 31, 2017; (3) and any remaining documents by September 5, 2017. OMB shall produce any non-exempt, responsive material to plaintiff on a rolling basis on those same dates. The Court FURTHER ORDERS the parties to comply with the following briefing schedule: defendants shall file their motion for summary judgment by no later than September 19, 2017; plaintiff shall file a combined cross-motion for summary judgment and opposition to defendants' motion for summary judgment, by no later than October 3, 2017; defendants shall file a combined reply in support of their motion for summary judgment and opposition to plaintiff's cross-motion by no later than October 17, 2017; and plaintiff shall file a reply in support of its cross-motion by no later than October 23, 2017. The Court FURTHER ORDERS that a hearing on the parties' motions for summary judgment will be held on November 2, 2017 at 11:00 a.m. in Courtroom 24A. Signed by Judge Emmet G. Sullivan on May 25, 2017. (lcegs2) (Entered: 05/25/2017)
05/25/2017		Set/Reset Deadlines: Defendants Motion For Summary Judgment due by 9/19/2017. Plaintiff Combined Cross-Motion For Summary Judgment And Opposition To Defendants' Motion For Summary Judgment due by 10/3/2017. Defendants Combined Reply In Support Of Their Motion For Summary Judgment and Opposition To Plaintiff's Cross-Motion due by 10/17/2017. Plaintiff Reply In Support Of Its Cross-Motion due by 10/23/2017. (mac) (Entered: 05/25/2017)
06/07/2017	<u>12</u>	ANSWER to Complaint by OFFICE OF MANAGEMENT AND BUDGET, U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES.(Baer, Michael) (Entered: 06/07/2017)
07/11/2017	<u>13</u>	TRANSCRIPT OF PROCEEDINGS before Judge Emmet G. Sullivan held on 5-25-17; Page Numbers: (1-30). Date of Issuance:7-11-17. Court Reporter/Transcriber Scott Wallace, Telephone number 202-354-3196, Transcripts may be ordered by submitting the Transcript Order Form<P></P><P></P>For the first 90 days after this filing date, the transcript may be viewed at the courthouse at a public terminal or purchased from the court reporter referenced above. After 90 days, the transcript may be accessed via PACER. Other transcript formats, (multi-page, condensed, CD or ASCII) may be purchased from the court reporter.<P> NOTICE RE REDACTION OF TRANSCRIPTS: The parties have twenty-one days to file with the court and the court reporter any request to redact personal identifiers from this transcript. If no such requests are filed, the transcript will be made available to the public via PACER without redaction after 90 days. The policy, which includes the five personal identifiers specifically covered, is located on our website at www.dcd.uscourts.gov.<P></P>Redaction Request due 8/1/2017. Redacted Transcript Deadline set for 8/11/2017. Release of Transcript Restriction set for 10/9/2017.(Wallace, Scott) (Entered: 07/11/2017)
07/25/2017	<u>14</u>	STANDING ORDER: The parties are directed to read the attached Standing Order Governing Civil Cases Before Judge Emmet G. Sullivan in its entirety upon receipt. The parties are hereby ORDERED to comply with the directives in the attached Standing Order. Signed by Judge Emmet G. Sullivan on 7/24/2017.(Attachments: # <u>1</u> Exhibit) (lcegs1) (Entered: 07/25/2017)
08/02/2017	<u>15</u>	STATUS REPORT AND REQUEST FOR HEARING by AMERICAN OVERSIGHT. (Attachments: # <u>1</u> Exhibit A – Excerpts)(Creighton, Sara) (Entered: 08/02/2017)
08/02/2017	17	MOTION for Hearing by AMERICAN OVERSIGHT. (See Docket Entry <u>15</u> to view document). (znmw) (Entered: 08/03/2017)
08/03/2017	<u>16</u>	Memorandum in Opposition re 17 Motion for Hearing, <u>15</u> Status Report in response to Plaintiff's Status Report and Request for Hearing by OFFICE OF MANAGEMENT AND BUDGET, U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES. (Attachments: # <u>1</u> Exhibit A)(Baer, Michael) Modified event title and added links on 8/3/2017 (znmw). (Entered: 08/03/2017)
08/04/2017		MINUTE ORDER denying 17 plaintiff's motion for a hearing. The Court agrees with defendants that it is premature at this juncture to determine the applicability of FOIA exemptions given that document production is still underway and that defendants have not yet provided the court with the information necessary to make a decision on the applicable exemptions. Signed by Judge Emmet G. Sullivan on August 4, 2017. (lcegs2) (Entered: 08/04/2017)

09/13/2017	<u>18</u>	Unopposed MOTION for Extension of Time to <i>File Motion for Summary Judgment</i> by OFFICE OF MANAGEMENT AND BUDGET, U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES (Attachments: # <u>1</u> Text of Proposed Order)(Baer, Michael) (Entered: 09/13/2017)
09/15/2017	<u>19</u>	MOTION to Intervene <i>and Memorandum in Support of Motion to Intervene</i> by COMMITTEE ON WAYS AND MEANS U.S. HOUSE OF REPRESENTATIVES (Attachments: # <u>1</u> Declaration, # <u>2</u> Exhibit Answer to Complaint, # <u>3</u> Text of Proposed Order)(Hungar, Thomas) (Entered: 09/15/2017)
09/15/2017	<u>20</u>	NOTICE of Appearance by Thomas G. Hungar on behalf of COMMITTEE ON WAYS AND MEANS U.S. HOUSE OF REPRESENTATIVES (Hungar, Thomas) (Entered: 09/15/2017)
09/19/2017	<u>21</u>	MOTION for Leave to File by COMMITTEE ON WAYS AND MEANS U.S. HOUSE OF REPRESENTATIVES (Attachments: # <u>1</u> Text of Proposed Order Granting Motion for Leave to File, # <u>2</u> Supplement Proposed Motion for Summary Judgment and Memorandum in Support, # <u>3</u> Statement of Facts, # <u>4</u> Declaration and Exhibits, # <u>5</u> Text of Proposed Order Granting Motion for Summary Judgment)(Hungar, Thomas) (Entered: 09/19/2017)
09/19/2017		MINUTE ORDER granting <u>18</u> defendant's unopposed motion for an extension of time. The Court directs the parties to comply with the following briefing schedule: defendants shall file their motion for summary judgment by no later than September 26, 2017; plaintiff shall file a combined cross-motion for summary judgment and opposition to defendants' motion for summary judgment, by no later than October 10, 2017; defendants shall file a combined reply in support of their motion for summary judgment and opposition to plaintiff's cross-motion by no later than October 24, 2017; and plaintiff shall file a reply in support of its cross-motion by no later than October 30, 2017. The hearing on the parties' motions for summary judgment will still be held on November 2, 2017 at 11:00 a.m. in Courtroom 24A. Signed by Judge Emmet G. Sullivan on September 19, 2017. (lcegs2) (Entered: 09/19/2017)
09/20/2017		Set/Reset Deadlines/Hearings: Defendants Motion For Summary Judgment due by 9/26/2017. Plaintiff Combined Cross-Motion For Summary Judgment And Opposition To Defendants' Motion For Summary Judgment due by 10/10/2017. Defendants Combined Reply In Support Of Their Motion For Summary Judgment And Opposition To Plaintiff's Cross-Motion due by 10/24/2017.Plaintiff Reply In Support Of Its Cross-Motion due by 10/30/2017. Motion Hearing set for 11/2/2017 at 11:00 AM in Courtroom 24A before Judge Emmet G. Sullivan. (mac) (Entered: 09/20/2017)
09/20/2017	<u>22</u>	WITHDRAWN PURSUANT TO NOTICE FILED 9/26/2017.....MOTION to Modify <i>Briefing Schedule on Motion to Intervene</i> by AMERICAN OVERSIGHT (Attachments: # <u>1</u> Text of Proposed Order)(Creighton, Sara) Modified on 9/27/2017 (znmw). (Entered: 09/20/2017)
09/26/2017	<u>23</u>	WITHDRAWAL of Motion by AMERICAN OVERSIGHT re <u>22</u> MOTION to Modify <i>Briefing Schedule on Motion to Intervene</i> filed by AMERICAN OVERSIGHT . (Creighton, Sara) (Entered: 09/26/2017)
09/26/2017	<u>24</u>	RESPONSE re <u>19</u> MOTION to Intervene <i>and Memorandum in Support of Motion to Intervene</i> filed by AMERICAN OVERSIGHT. (Creighton, Sara) (Entered: 09/26/2017)
09/26/2017		MINUTE ORDER granting as unopposed <u>19</u> the U.S. House of Representatives Committee on Ways and Means' motion to intervene. The Committee is added as a defendant-intervenor in this action. The [19-2] Committee's answer is deemed filed as of the date of this Order. Signed by Judge Emmet G. Sullivan on September 26, 2017. (lcegs2) (Entered: 09/26/2017)
09/26/2017		MINUTE ORDER granting <u>21</u> the U.S. House of Representatives Committee on Ways and Means' motion for leave to file a motion for summary judgment. The Committee's motion for summary judgment, memorandum in support, and accompanying materials are deemed filed. Plaintiff shall file its opposition to the Committee's motion for summary judgment, which shall be combined with its opposition to defendants' motion for summary judgment and its cross-motion for summary judgement, by no later than October 10, 2017. The Committee shall file its combined reply in support of its motion for summary judgment and opposition to plaintiff's cross-motion for summary

		judgment by no later than October 24, 2017. All other briefing deadlines previously entered in the Court's Minute Order on September 19, 2017 remain in place. Defendant is further directed to deliver to chambers by no later than 4:00 pm on November 3, 2017 two binders each containing one hard copy of (1) its motion and any attached materials thereto; (2) the Committee's motion and any attached materials thereto; (3) plaintiff's combined opposition and cross-motion and any attached materials thereto; and (4) any replies and any attached materials thereto. Hard copies shall be single-sided, use one-inch margins, and be in three-ring binders with appropriate tables of contents and tabs, and the binders shall be clearly labeled to identify the contents therein. Due to the competing demands on the Court's calendar, including official travel outside the jurisdiction, the hearing on the parties' motions for summary judgment previously scheduled for November 2, 2017 will now take place on December 13, 2017 at 10:30 am in Courtroom 24A. To the extent that the Court determines that it can resolve the parties' motions without oral argument, the parties are advised that the Court may cancel the December 13 hearing. Signed by Judge Emmet G. Sullivan on September 26, 2017. (lcegs2) (Entered: 09/26/2017)
09/26/2017	<u>25</u>	MOTION for Summary Judgment by OFFICE OF MANAGEMENT AND BUDGET, U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES (Attachments: # <u>1</u> Memorandum in Support, # <u>2</u> Declaration of Thomas Hitter, # <u>3</u> Declaration of Jonathan Slemrod, # <u>4</u> Declaration of Michael Bell, # <u>5</u> Declaration of Kristin S. Skrzycki, # <u>6</u> Declaration of Sarah C. Arbes, # <u>7</u> Statement of Facts not in Dispute, # <u>8</u> Text of Proposed Order)(Baer, Michael) (Entered: 09/26/2017)
09/26/2017	<u>26</u>	ANSWER to Complaint by COMMITTEE ON WAYS AND MEANS U.S. HOUSE OF REPRESENTATIVES.(jf) (Entered: 09/27/2017)
09/26/2017	<u>27</u>	MOTION for Summary Judgment by COMMITTEE ON WAYS AND MEANS U.S. HOUSE OF REPRESENTATIVES (Attachments: # <u>1</u> Statement of Facts, # <u>2</u> Declaration and Exhibits, # <u>3</u> Text of Proposed Order)(jf) (Entered: 09/27/2017)
09/27/2017		Set/Reset Deadlines/Hearings: Plaintiff Opposition To The Committee's Motion For Summary Judgment, Which Shall Be Combined With Its Opposition To Defendants' Motion For Summary Judgment And Its Cross-Motion For Summary Judgment due by 10/10/2017. The Committee Combined Reply In Support Of Its Motion For Summary Judgment And Opposition To Plaintiff's Cross-Motion For Summary Judgment due by 10/24/2017. Motion Hearing set for 10/13/2017 at 10:30 AM in Courtroom 24A before Judge Emmet G. Sullivan. (mac) (Entered: 09/27/2017)
09/29/2017	<u>28</u>	Joint MOTION for Extension of Time to <i>Complete Summary Judgment Briefing</i> by AMERICAN OVERSIGHT (Attachments: # <u>1</u> Text of Proposed Order)(Creighton, Sara) (Entered: 09/29/2017)
10/02/2017		MINUTE ORDER granting <u>28</u> the parties' joint motion for an extension of time. Plaintiff shall file its opposition to the Committee's motion for summary judgment, which shall be combined with its opposition to defendants' motion for summary judgment and its cross-motion for summary judgement, by no later than October 17, 2017. Defendants shall file any response to the Committee's motion for summary judgment by no later than October 17, 2017. The Committee shall file its combined reply in support of its motion for summary judgment and opposition to plaintiff's cross-motion for summary judgment by no later than November 3, 2017. Defendants shall file their combined reply in support of their motion for summary judgment and opposition to plaintiff's cross-motion for summary judgement by no later than November 3, 2017. Plaintiff shall file its reply in support of its motion for summary judgment by no later than November 10, 2017. Defendant is directed to deliver to chambers by no later than 4:00 pm on November 14, 2017 the materials set forth in the Court's September 26, 2017 Minute Order. Signed by Judge Emmet G. Sullivan on October 2, 2017. (lcegs2) (Entered: 10/02/2017)
10/02/2017		Set/Reset Deadlines: Plaintiff Combined Opposition To The Committee's Motion For Summary Judgment, Which Shall Be Combined With Its Opposition To Defendants' Motion For Summary Judgment And Its Cross-Motion For Summary Judgment And Defendants Response To The Committee's Motion For Summary Judgment due by 10/17/2017. The Committee Combined Reply In Support Of Its Motion For Summary Judgment And Opposition To Plaintiff's Cross-Motion For Summary Judgment And Plaintiff Reply In Support Of Its Motion For Summary Judgment due by 11/3/2017.

		Plaintiff Reply In Support Of Its Motion For Summary Judgment due by 11/10/2017. (mac) (Entered: 10/02/2017)
10/11/2017	<u>29</u>	MOTION for Leave to File Excess Pages in <i>Combined Oppositions and Cross-Motions for Summary Judgment</i> by AMERICAN OVERSIGHT (Attachments: # <u>1</u> Text of Proposed Order)(Creighton, Sara) (Entered: 10/11/2017)
10/12/2017		MINUTE ORDER denying <u>29</u> plaintiff's motion for excess pages. In light of the fact that defendant and defendant-intervenor's memoranda in support of their motions for summary judgment only amount to 41 pages combined, the Court finds that additional pages for plaintiff's opposition and cross-motion are unwarranted. Signed by Judge Emmet G. Sullivan on October 12, 2017. (lcegs2) (Entered: 10/12/2017)
10/13/2017		Set/Reset Hearings: Motion Hearing set for 12/13/2017 at 10:30 AM in Courtroom 24A before Judge Emmet G. Sullivan. (mac) (Entered: 10/13/2017)
10/17/2017	<u>30</u>	Cross MOTION for Summary Judgment by AMERICAN OVERSIGHT (Attachments: # <u>1</u> Memorandum in Support of Cross-Motion, # <u>2</u> Text of Proposed Order, # <u>3</u> Declaration of Sara Creighton and Exhibits Thereto, # <u>4</u> Statement of Facts as to Defendants, # <u>5</u> Statement of Facts as to Defendant-Intervenor, # <u>6</u> Declaration Under FRCP 56(d))(Creighton, Sara) (Entered: 10/17/2017)
10/17/2017	<u>31</u>	Memorandum in opposition to re <u>25</u> MOTION for Summary Judgment filed by AMERICAN OVERSIGHT. (Attachments: # <u>1</u> Text of Proposed Order, # <u>2</u> Declaration of Sara Creighton and Exhibits Thereto, # <u>3</u> Statement of Facts, # <u>4</u> Declaration under FRCP 56(d))(Creighton, Sara) (Entered: 10/17/2017)
10/17/2017	<u>32</u>	Memorandum in opposition to re <u>27</u> MOTION for Summary Judgment filed by AMERICAN OVERSIGHT. (Attachments: # <u>1</u> Text of Proposed Order, # <u>2</u> Declaration of Sara Creighton and Exhibits Thereto, # <u>3</u> Statement of Facts, # <u>4</u> Declaration under FRCP 56(d))(Creighton, Sara) (Entered: 10/17/2017)
11/03/2017	<u>33</u>	REPLY to opposition to motion re <u>27</u> MOTION for Summary Judgment filed by COMMITTEE ON WAYS AND MEANS U.S. HOUSE OF REPRESENTATIVES. (Attachments: # <u>1</u> Statement of Facts Reply to Counter-Statement of Material Facts Not In Dispute, # <u>2</u> Declaration Second Declaration of Allison E. Halataei)(Hungar, Thomas) Modified link on 11/6/2017 (znmw). (Entered: 11/03/2017)
11/03/2017	<u>34</u>	Memorandum in opposition to re <u>30</u> Cross MOTION for Summary Judgment <i>and reply re Motion for Summary Judgment</i> filed by OFFICE OF MANAGEMENT AND BUDGET, U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES. (Attachments: # <u>1</u> Declaration of Thomas Hitter (Suppl.), # <u>2</u> Declaration of Michael Bell (Suppl.), # <u>3</u> Statement of Facts (Reply to Counter-Statement))(Baer, Michael) (Entered: 11/03/2017)
11/03/2017	<u>35</u>	REPLY to opposition to motion re <u>25</u> MOTION for Summary Judgment <i>and opposition re Cross-Motion for Summary Judgment</i> filed by OFFICE OF MANAGEMENT AND BUDGET, U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES. (Attachments: # <u>1</u> Declaration of Thomas Hitter (Suppl.), # <u>2</u> Declaration of Michael Bell (Suppl.), # <u>3</u> Statement of Facts (Reply to Counter-Statement))(Baer, Michael) (Entered: 11/03/2017)
11/03/2017	<u>36</u>	Memorandum in opposition to re <u>30</u> Cross MOTION for Summary Judgment filed by COMMITTEE ON WAYS AND MEANS U.S. HOUSE OF REPRESENTATIVES. (See Docket Entry <u>33</u> to view document). (znmw) (Entered: 11/06/2017)
11/10/2017	<u>37</u>	REPLY to opposition to motion re <u>30</u> Cross MOTION for Summary Judgment filed by AMERICAN OVERSIGHT. (Creighton, Sara) (Entered: 11/10/2017)
12/05/2017	<u>38</u>	NOTICE of Appearance by James Mahoney Burnham on behalf of OFFICE OF MANAGEMENT AND BUDGET, U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES (Burnham, James) (Entered: 12/05/2017)
12/11/2017		MINUTE ORDER. The Court, sua sponte, cancels the motions hearing scheduled for December 13, 2017. In the event the Court is unable to resolve the pending motions for summary judgment without a hearing, the Court will advise the parties and reschedule the hearing for a mutually agreeable date and time. Signed by Judge Emmet G. Sullivan on December 11, 2017. (lcegs2) (Entered: 12/11/2017)

03/08/2018		MINUTE ORDER REFERRING CASE. Pursuant to Local Civil Rule 72.3(a)(3), the Court hereby refers <u>25</u> , <u>27</u> , <u>30</u> the pending cross-motions for summary judgment to a magistrate judge for a report and recommendation. All proceedings before the Honorable Emmet G. Sullivan are hereby STAYED pending receipt of a report and recommendation. Signed by Judge Emmet G. Sullivan on March 8, 2018. (lcegs2) (Entered: 03/08/2018)
03/08/2018		Case Stayed (mac) (Entered: 03/08/2018)
03/08/2018		CASE RANDOMLY REFERRED to Magistrate Judge Deborah A. Robinson for a report and recommendation. (zmd) (Entered: 03/12/2018)
05/08/2018		Set/Reset Hearings: Status Conference set for 5/30/2018 at 02:30 PM in Courtroom 4 before Magistrate Judge Deborah A. Robinson. (lcdar1) (Entered: 05/08/2018)
05/30/2018		Minute Entry for proceedings held before Magistrate Judge Deborah A. Robinson: Status Conference held on 5/30/2018. Parties are to meet and confer to identify the issues regarding argument. Joint Oral Argument Memorandum due by 6/22/2018. Oral Argument Hearing set for 6/26/2018 at 02:00 PM in Courtroom 4 before Magistrate Judge Deborah A. Robinson. Court Reporter FTR – Gold; FTR Time Frame: Ctrm 4 [2:35:01 – 2:48:22]; Plaintiff's Attorneys: John Bies and Sara Creighton; Defense Attorneys: James Burnham, Michael Baer, Thomas Hungar, Kristin Shapiro, and Marcia Berman. (cal) (Entered: 05/30/2018)
06/18/2018	<u>39</u>	NOTICE of Recent Production Raising Related Issues by AMERICAN OVERSIGHT (Attachments: # <u>1</u> Exhibit A)(Creighton, Sara) (Entered: 06/18/2018)
06/22/2018	<u>40</u>	JOINT ORAL ARGUMENT MEMORANDUM by AMERICAN OVERSIGHT. (Creighton, Sara) Modified on 6/25/2018 to add docket text (jf). (Entered: 06/22/2018)
06/26/2018	<u>41</u>	RESPONSE re <u>39</u> Notice (Other) filed by OFFICE OF MANAGEMENT AND BUDGET, U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES. (Attachments: # <u>1</u> Exhibit 1)(Baer, Michael) (Entered: 06/26/2018)
06/26/2018		Minute Entry for proceedings held before Magistrate Judge Deborah A. Robinson: Oral Argument held on 6/26/2018. Report and Recommendation to be filed by the Court. Court Reporter: Janice Dickman; FTR Time Frame: Ctrm 4 [2:01:00 – 3:34:23; 3:53:09 – 4:17:10]; Plaintiff's Attorneys: John Bies and Sara Creighton; Defendant's Attorneys: James Burnham, Michael Baer, and Marcia Berman; Intervenor Defendant's Attorneys: Thomas Hungar and Kristin Shapiro. (cal) (Entered: 06/26/2018)
07/10/2018	<u>42</u>	MOTION to Temporarily Lift Stay by AMERICAN OVERSIGHT (Attachments: # <u>1</u> Text of Proposed Order, # <u>2</u> Exhibit A – Motion for Judgment on the Pleadings)(Creighton, Sara) . (Entered: 07/10/2018)
07/17/2018		MINUTE ORDER referring <u>42</u> plaintiff's motion to temporarily lift the stay to Magistrate Judge Robinson for her consideration prior to issuing her report and recommendation on the pending motions for summary judgment. Signed by Judge Emmet G. Sullivan on July 17, 2018. (lcegs2) (Entered: 07/17/2018)
07/19/2018		MINUTE ORDER: A status hearing is scheduled for 10:00 a.m. on Monday, July 23, 2018 in Courtroom 4 before Magistrate Judge Deborah A. Robinson. So Ordered by Magistrate Judge Deborah A. Robinson on 07/19/2018. (lcdar3) (Entered: 07/19/2018)
07/19/2018	<u>43</u>	Memorandum in opposition to re <u>42</u> MOTION to Lift Stay filed by COMMITTEE ON WAYS AND MEANS U.S. HOUSE OF REPRESENTATIVES. (Hungar, Thomas) (Entered: 07/19/2018)
07/20/2018	<u>44</u>	MOTION for Leave to Appear Pro Hac Vice :Attorney Name– Katherine M. Anthony, :Firm– American Oversight, :Address– 1030 15th Street NW B–255, Washington, DC 20005. Phone No. – (202) 869–5246. Fax No. – (202) 871–6523 Filing fee \$ 100, receipt number 0090–5598202. Fee Status: Fee Paid. by AMERICAN OVERSIGHT (Creighton, Sara) (Entered: 07/20/2018)
07/23/2018		MINUTE ORDER granting <u>44</u> Motion for Leave to Appear Pro Hac Vice. So Ordered by Magistrate Judge Deborah A. Robinson on 7/23/2018. (cal) Modified on 7/23/2018 (zcal). (Entered: 07/23/2018)

07/23/2018		Minute Order and Entry for Proceedings held before Magistrate Judge Deborah A. Robinson: Status Conference held on 7/23/2018. <u>42</u> Motion to Lift Stay is GRANTED. The Court directs the Clerk's Office to extract Exhibit A from Motion <u>42</u> and file as a separate motion. Intervenor Defendant's Opposition to the Plaintiff's Motion for Judgment on the Proceedings due no later than 7/26/2018. Plaintiff's Reply due no later than 7/30/2018. Court Reporter FTR – Gold; TR Time Frame: Ctrm 4 [10:03:58 – 10:21:01]; Plaintiff's Attorneys: John Bies, Sara Creighton, and Katherine Anthony; Defendant's Attorneys: Michael Baer and Marcia Berman; Intervenor Defendant's Attorneys: Thomas Hungar and Kristin Shapiro. (cal) (Entered: 07/23/2018)
07/23/2018	<u>45</u>	MOTION for Judgment on the Pleadings by AMERICAN OVERSIGHT (ztd) (Entered: 07/24/2018)
07/24/2018		MINUTE ORDER referring <u>45</u> plaintiff's motion for judgment on the pleadings to Magistrate Judge Robinson for a report and recommendation. Signed by Judge Emmet G. Sullivan on 7/24/2018. (lcegs2) (Entered: 07/24/2018)
07/26/2018	<u>46</u>	Memorandum in opposition to re <u>45</u> MOTION for Judgment on the Pleadings filed by COMMITTEE ON WAYS AND MEANS U.S. HOUSE OF REPRESENTATIVES. (Hungar, Thomas) (Entered: 07/26/2018)
07/30/2018	<u>47</u>	REPLY to opposition to motion re <u>45</u> MOTION for Judgment on the Pleadings filed by AMERICAN OVERSIGHT. (Creighton, Sara) (Entered: 07/30/2018)
08/03/2018	<u>48</u>	REPORT AND RECOMMENDATION re <u>45</u> Motion for Judgement on the Pleading. Signed by Magistrate Judge Deborah A. Robinson on 8/3/2018. (lcdar1) (Entered: 08/03/2018)
08/03/2018		MINUTE ORDER STAYING CASE. In view of the referral of this case to a Magistrate Judge for a report and recommendation, proceedings before Judge Sullivan are STAYED. Signed by Judge Emmet G. Sullivan on 8/3/2018. (lcegs1) (Entered: 08/03/2018)
08/03/2018		MINUTE ORDER. In view of <u>35</u> joint status report, the parties shall submit a joint status report by no later than November 3, 2018 advising the Court whether a continued stay is warranted or if litigation deadlines should be reinstated, in which case the parties shall propose a revised litigation schedule. Signed by Judge Emmet G. Sullivan on 8/3/2018. (lcegs1) (Entered: 08/03/2018)
08/03/2018		Set/Reset Deadlines: Joint Status Report due by 11/3/2018. (mac) (Entered: 08/03/2018)
08/10/2018	<u>49</u>	REPORT AND RECOMMENDATION re <u>25</u> MOTION for Summary Judgment filed by U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES, OFFICE OF MANAGEMENT AND BUDGET, <u>30</u> Cross MOTION for Summary Judgment filed by AMERICAN OVERSIGHT, <u>27</u> MOTION for Summary Judgment filed by COMMITTEE ON WAYS AND MEANS U.S. HOUSE OF REPRESENTATIVES. Signed by Magistrate Judge Deborah A. Robinson on 8/10/2018. (lcdar1) (Entered: 08/10/2018)
08/17/2018	<u>50</u>	OBJECTION to <u>48</u> Report and Recommendations filed by AMERICAN OVERSIGHT. (Attachments: # <u>1</u> Text of Proposed Order)(Creighton, Sara) (Entered: 08/17/2018)
08/24/2018	<u>51</u>	OBJECTION to <u>49</u> Report and Recommendations filed by AMERICAN OVERSIGHT. (Creighton, Sara) (Entered: 08/24/2018)
08/24/2018	<u>52</u>	OBJECTION to <u>49</u> Report and Recommendations filed by OFFICE OF MANAGEMENT AND BUDGET, U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES. (Baer, Michael) (Entered: 08/24/2018)
08/31/2018	<u>53</u>	RESPONSE re <u>50</u> Objection to Report and Recommendations filed by COMMITTEE ON WAYS AND MEANS U.S. HOUSE OF REPRESENTATIVES. (Attachments: # <u>1</u> Declaration of Lily Hsu and Exhibits A & B)(Hungar, Thomas) (Entered: 08/31/2018)
08/31/2018	<u>54</u>	RESPONSE re <u>52</u> Objection to Report and Recommendations filed by AMERICAN OVERSIGHT. (Creighton, Sara) (Entered: 08/31/2018)

09/07/2018	<u>55</u>	REPLY re <u>50</u> Objection to Report and Recommendations filed by AMERICAN OVERSIGHT. (Anthony, Katherine) (Entered: 09/07/2018)
09/07/2018	<u>56</u>	RESPONSE re <u>51</u> Objection to Report and Recommendations filed by COMMITTEE ON WAYS AND MEANS U.S. HOUSE OF REPRESENTATIVES. (Hungar, Thomas) (Entered: 09/07/2018)
09/07/2018	<u>57</u>	RESPONSE re <u>51</u> Objection to Report and Recommendations filed by OFFICE OF MANAGEMENT AND BUDGET, U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES. (Baer, Michael) (Entered: 09/07/2018)
09/07/2018	<u>58</u>	REPLY re <u>52</u> Objection to Report and Recommendations filed by OFFICE OF MANAGEMENT AND BUDGET, U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES. (Baer, Michael) (Entered: 09/07/2018)
09/14/2018	<u>59</u>	REPLY re <u>51</u> Objection to Report and Recommendations filed by AMERICAN OVERSIGHT. (Creighton, Sara) (Entered: 09/14/2018)
09/17/2018	<u>60</u>	NOTICE OF SUPPLEMENTAL AUTHORITY by AMERICAN OVERSIGHT (Creighton, Sara) (Entered: 09/17/2018)
09/28/2018	<u>61</u>	RESPONSE re <u>60</u> NOTICE OF SUPPLEMENTAL AUTHORITY filed by OFFICE OF MANAGEMENT AND BUDGET, U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES. (Baer, Michael) (Entered: 09/28/2018)
11/01/2018	<u>62</u>	NOTICE of Change of Address by Michael Hendry Baer (Baer, Michael) (Entered: 11/01/2018)
11/02/2018	<u>63</u>	Joint STATUS REPORT by AMERICAN OVERSIGHT. (Anthony, Katherine) (Entered: 11/02/2018)
01/03/2019	<u>64</u>	NOTICE of Appearance by Kimberly Ann Hamm on behalf of COMMITTEE ON WAYS AND MEANS U.S. HOUSE OF REPRESENTATIVES (Hamm, Kimberly) (Entered: 01/03/2019)
01/03/2019	<u>65</u>	MOTION to Withdraw as Attorney by COMMITTEE ON WAYS AND MEANS U.S. HOUSE OF REPRESENTATIVES (Hungar, Thomas) (Entered: 01/03/2019)
01/03/2019	<u>66</u>	NOTICE of Appearance by Kristin A. Shapiro on behalf of COMMITTEE ON WAYS AND MEANS U.S. HOUSE OF REPRESENTATIVES (Shapiro, Kristin) (Entered: 01/03/2019)
01/25/2019		MINUTE ORDER granting <u>65</u> Motion to Withdraw as Attorney. Attorney Thomas G. Hungar terminated. Signed by Judge Emmet G. Sullivan on 1/25/2019. (lcegs2) (Entered: 01/25/2019)
03/31/2019	<u>67</u>	NOTICE OF SUPPLEMENTAL AUTHORITY by AMERICAN OVERSIGHT (Attachments: # <u>1</u> Exhibit A)(Creighton, Sara) (Entered: 03/31/2019)
04/02/2019	<u>68</u>	MOTION to Withdraw as Attorney by COMMITTEE ON WAYS AND MEANS U.S. HOUSE OF REPRESENTATIVES (Hamm, Kimberly) (Entered: 04/02/2019)
04/04/2019		MINUTE ORDER granting <u>68</u> motion to withdraw as attorney. Attorney Kimberly Ann Hamm terminated. Signed by Judge Emmet G. Sullivan on 4/4/2019. (lcegs2) (Entered: 04/04/2019)